SUPREME COURT OF THE UNITED STATES.

No. 196.

THE UNITED STATES, APP'T,

vs.

JOSÉ JESUS PICO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this fourteenth day of August, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Jose de Jesus Pico, for the place named "Peidra Blanca," was presented, and ordered to be filed and docketed with No. 302, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition, the following subsequent proceedings were had in their chronological order to wit:

LOS ANGELES, *September* 2*d*, 1852.

In case No. 302, Jose de Jesus Pico, for the place named "Piedra Blanca," the deposition of Pablo de la Guerra, a witness on behalf of the claimant, taken before Commissioner James Wilson, was filed.

Vide page 3 of this transcript.

LOS ANGELES, *September* 3*d*, 1852.

In the same case the deposition of Andres Pico, a witness on behalf of the claimant, was taken before Commissioner James Wilson; was filed.

Vide page 5 of this transcript.

SAN FRANCISCO, *Jan.* 15*th*, 1853.

In the same case the deposition of Antonio Maria Pico, a witness on behalf of the claimant taken before Commissioner Harry J. Thornton, was filed.

Vide page 4 of this transcript.

SAN FRANCISCO, *September* 2*d*, 1853.

In the same case the deposition of Thomas E. Evershed, a witness in behalf of the claimant, taken before the commissoners sitting as a board, with document marked Q and A F, annexed thereto, was filed.

Vide page 6 of this transcript.

Case No. 302, called. The counsel for the claimant read the evidence; argued, submitted, and taken under advisement.

SAN FRANCISCO, *Dec.* 13*th*, 1853.

In the same case Commissioner Alpheus Felch delivered the opinion of the board, confirming the claim.

Vide page 23d of this transcript.

Before the commissioners to ascertain and settle private land claims in California:

[Petition.]

Jose de Jesus Pico gives notice that he claims a tract of land called the Rancho de la Piedra Blanca, situated in said State, by virtue of a right and title derived from the Mexican government, according to the boundaries set forth in the grant thereof, and in the judicial delivery made in conformity with said grant.

A copy of said grant is herewith presented, and prayed to be received as part of this petition; and the original will be produced and proved as may be required, together with other evidence.

By his attorneys,

JONES, TOMKINS, & STRODE.

Filed in office, August 14th, 1852.

GEO. FISHER,
Sec'y.

[Deposition of Pablo de la Guerra.]

OFFICE OF THE BOARD OF COM'RS OF CALIFORNIA LAND CLAIMS,
Los Angeles, Sept. 2*d*, 1852.

This deposition taken in the case of Jose de Jesus Pico, claiming the Rancho Piedra Blanca, case No. 302. The law agent of the United States was present, by R. Greenhow, esq., by consent, and did not object.

Petitioner offers Don Pablo de la Guerra as a witness, who, being duly sworn, testified and says:

I am acquainted with the signature of Juan B. Alvarado, Manuel Jimeno, & Jose Mariano Bonilla. I have often seen them write, and am familiar with their handwriting. The signatures of Alvardo, Jimeno, & Bonilla, as they appear on the document now exhibited to me, are their genuine signatures, and made and executed in the true handwriting of those persons. I have known that J. Mariano Bonilla was alcalde or magistrate, in the jurisdiccion of San Luis Obispo, on various occasions in past years. I cannot now say the precise time; my impression is, that he was a magistrate within that jurisdiccion at the time the aforesaid papers purport to bear his signature as such, but of that fact I cannot be certain.

PABLO DE LA GUERRA.

Sept. 2d, 1852.

Subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office, September 2d, 1852.

GEO. FISHER,
Sec'y.

[Deposition of A. Maria Pico.]

No. 302. SAN FRANCISCO, *Jan'y 15th*, 1853.

On this day, before Com'r Harry J. Thornton, came Antonio Maria Pico, a witness in behalf of the claimant, Jose de Jesus Pico, petition No. 302, and was duly sworn—his evidence being interpreted by the secretary.

The United States associate law agent was present.

Antonio Maria Pico, a witness called on behalf of the claimant, in answer to interrogatories of claimant's counsel, testified as follows. The associate law agent was present.

My name is Antonio Maria Pico. I am forty-four years of age, and reside in the pueblo of San Jose Gaudeloupe. I am acquainted with the rancho called Piedra Blanca, situated in the county of San Luis Obispo. It was granted to my brother, Jose de Jesus Pico, in the year 1840. He has occupied, with his cattle and horses, ever since about that time. He built a house and cattle-pens there in the year 1840 or 1841, and his cattle have been upon the rancho ever since, and there has been sufficient of the land cultivated for the uses of the rancho. I know the signature of J. Mariano Bonilla. I have seen him write. He was alcalde of justice of the peace of the jurisdiction of San Luis Obispo in the year 1842. His signature, where it occurs on the paper exhibited to me, and which is attached to the depository of Don Pablo de la Guerra in this case, is genuine. I am also acquainted with the signature of Don Juan B. Alvarado, & Don Manuel Jimeno; their signatures on said paper are genuine.

ANTONIO M'A PICO.

U. S. law agent present.

Sworn to and subscribed before me, this 15th of Jan'y, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office Jan'y 15th, 1853.

GEO. FISHER,
Sec'y.

[Deposition of Andres Pico.]

OFFICE OF THE BOARD OF COMM'RS
OF CALIFORNIA LAND CLAIMS,

No. 302. *Los Angeles, September 3d*, 1852.

On this day, before James Wilson, one of the commissioners for

ascertaining and settling private land claims in California, came Don Andres Pico, a witness produced in behalf of the claimant, Jose de Jesus Pico, whose petition is No. 302 on the docket of the board, and was duly sworn. His evidence being given in the Spanish language, was interpreted by the secretary.

The U. S. law agent was notified, and did attend.

Andres Pico, a witness offered by and in behalf of Jose de Jesus Pico, petitioner in the case wherein he prays for confirmation of Rancho Piedra Blanca.

The witness being duly sworn, testifies and says: I am acquainted with the Rancho Piedra Blanca. It is in the county of San Luis Obispo. I have known it since the year 1841. It is now occupied as a rancho for cattle, and there is a small house on it. It was stocked with cattle in 1841, and there was then a small house on it, and it has been occupied in that way, ever since that time. The occupation has been by and on account of Don Jose de Jesus Pico.

In answer to the interrogatories by the law agent, the witness says: The said rancho bounds on one side upon the sea, and is, of course, within ten leagues of the sea.

There has been some cultivation on the rancho; I cannot say to what extent, but not much. There has been about six or seven hundred head of cattle and about four hundred head of horses on the rancho some of the time. How many at present I cannot say. There has never been any claim to said rancho by any other person as I know of.

ANDRES PICO.

Sept'r 3d, 1852.

Subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office Sept'r 3d, 1852.

GEO. FISHER,
Sect'y.

[Deposition of Tho's E. Evershed.]

No. 302. SAN FRANCISCO, *Sept. 2d*, 1853.

Personally appeared before commissioners to ascertain and settle the private land claims in the State of Calif'a, sitting as a board this day, Tho's E. Evershed, a witness in behalf of claimant, who, after being duly sworn, deposed as follows:

Questions by Mr. Jones, att'y for the claimant:

Question 1st. What is your name, age, and residence?

Ans. My name is Tho's E. Evershed; my age twenty-nine years. I reside at the city of San Francisco, California.

Quest. 2d. Are you employed in the office of the Surveyor General of the U. S. for California?

Answer. I am.

Quest. 3d. State whether in that employment you made the copy of the document in the following words: "Session del dia 22 de Mayo. No. 189. Se Aprueba la concession huba por el S'r Gobernador D Juan B. Alvarado del Terreno Piedra Blanca en la persona del S'r D Jose de Jesus Pico, out of a book existing in the archives under the charge of the Surveyor General, and whether that book purports to be a record of proceedings of the Departmental Assembly of California for the year 1840 ?"

Ans'r. I made the copy of the above-described document out of the book entitled "Sessiones Publicas" for 1840, which forms a part of the documents registered as sessions of the Departmental Assembly, from 1822 to 1843.

Quest. 4th. State whether the end of the proceedings for the day in the minutes of which the above extracts appears is signed; and if so, by whom ?

Ans'r. It is signed by Manuel Jimeno, president, and Jose. Z. Fernandez, secretario.

Quest. 5th. State whether document marked exhibit D. A. F., and filed in this case, is the extract referred to in the first question ?

Ans'r. It is.

The law agent declined asking any questions.

THOS. E. EVERSHED.

Attest. GEO. FISHER,
Sec'y.

Filed in office, Sept'r 2d, 1853.

GEOR. FISHER,
Sec'y.

First seal, six dollars.

Provisionally qualified by the maratime custom-house of Monterey, for the years of 1839 and 1840.

ALVARADO. ANTO. M'A. OSIO.

[B—Translation.]

[SEAL.] Juan Bantista Alvarado, Constitutional Governor of the Department of California.

Whereas citizen Jose de Jesus Pico has solicited, for his personal benefit and that of his family, the tract of land known by the name of "La Piedra Blanca," bounding with the "arroyo" called del Penalite, with that known named "San Caspogan," with the sea and the large ridge of mountains, (Sierra Grande,) all the proper steps and investigations having been previously taken according to the disposition of the laws and regulations. Using the powers that are

conferred on me in the name of the Mexican nation, I have conceded to him the said tract, subject to the approval or disapproval of the most excellent Departmental Assembly, and under the following conditions:

1st. He may enclose it without injuring the crossings, roads, and easements, and shall enjoy it freely and exclusively, designing it for the use or cultivation that best suit him; but within one year he shall erect a house, and it shall be inhabited.

2nd. He shall solicit the proper judge to give him juridical possession by virtue of this despatch, whereby the boundaries shall be demarked, in the limits of which he shall put, besides the land-marks, some fruit or wild useful trees.

3d. The tract of which mention is made is of the extension as explained in the sketch which runs with the proper expediente. The judge giving the possession will cause it to be measured in conformity with ordinance, the surplus thereof to remain for the convenient use of the nation.

4th. If he should contravene these conditions, he shall lose his right to the land, and it may be denounceable by another.

Wherefore, I order that this title being held firm and valid, an entry thereof be made in the proper book, and be it delivered to the party interested for his safety and other purpose.

Given in Monterey, on the 18th of January, 1840.

JUAN B. ALVARADO.

MANUEL JIMENO,
Sec'y.

An entry of this despatch is made in the book of registry on adjudication of vacant lands, at page 14.

JIMENO.

Filed in office, Aug't 14th, 1852.

GEO. FISHER,
Sec'y.

Session del dia 22 de Mayo.

N. 189. Se aprueba la concesion hecha por el S'r Gobernador, D'n Juan B. Alvarado del Terreno Piedra Blanca, en la persona del S'r D'n Jose de Jesus Pico.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, Surveyor General of the United States for the State of California, and as such now having in my charge and custody a portion of the archives of the former Spanish and Mexican territory or Department of Upper California, by virtue of the powers in me vested by law, do hereby certify, that the preceding

and hereunto attached page of tracing-paper is a true and accurate copy, being an extract of the proceedings of the Departmental Assembly, contained in book entitled "Sessiones Publicas," for 1840, all of which forms a document now on file, and forming a part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed at the city of San Francisco, Cal., this 2nd day of September, 1853.

JOHN C. HAYS,
Survey'r Gen'l Cala.

Filed in office, Sept. 2nd, 1853.

GEO. FISHER,
Sec'y.

[Doc. J. W., annexed to the depo. of Pablo de la Guerra, taken before Commissioner James Wilson.]

Sello primen.—Seis pesos.

Habilitado provisionalm'te por la aduana maritima de Monterey, pura los arros de 1839 y 1840.

ANTONIO M'A OSIO.

ALVARADO.

Juan Batista Alvarado, Governador Constitutional del Departam'te de las Californias. Por cuanto el c'no Jose de Jesus Pico ha pretendido, para su benificio personal y el de su familia, el terreno conocido con el nombre de la Piedra Blanca, colindante con el arroyo llamado del Pinalito, con el del conocidō mombraba San Carpogaro, con el mar y la Sierra Grande; practicadas previamente las deligencias y averiguaciones concernientes segun lo despuesto por leges y reglamentos; usaudo de las facultades que me son conferidas à nombre de la nacion Mejicana he venido en conceederle el terreno mencionado sugetandore à la aprobacion d'desaprobacion de la ex'ma junta Departamental y bajo las condiciones seguientes: 1a. Podra cercalo sin perjudicar las trevesias, caminos y servidumbres lo disfrutara libre y esclusivamente destinandole al uso ó cultivo que mas le acomode pero dentro de un año fabricara casa y estara habitada. 2o. Solicitara del juez respectivo que le de la posecion juridica en virtud de este despacho por el cual se demarcaron los linderos lu cuyos limetes pordrà á mas de los mogoneras algunos arbales frutales silvestres de alguna utilidad. 3o. El terreno de que se hace mencion es de la estencion que esplica el diseño que corre la el espediente respectivo. El juez que diese la posecion lo hara medis conforme à ordenanza à quedando el sobrante que resulte à la nacion para los usos convenientes. 4o. Si contraviniese à estas condiciones perdera su derecho al terreno y sera denunciable por otro. En consecuencia q'e teniendose por

firme y valedero este litulo se tome rayon de el en el libro à q'e corresponde y se entreque al interesado para su resguardo y demas fines. Dado en Monterey à diez y ocho de Enero de mil ocho cientas cuarenta.

JUAN B. ALVARADO.

MANUEL JIMENO, *S'ño.*

Queda tomada rason de este despacho en el libro de acientos sobre adjudicacion de terreno valdios d f'a 14.

JIMENO.

En el pueblo de S. Luis Obispo à las venite cuatro dias del mes de Sep'r del año de mil y ocho cientos cuarenta y dos yo J. Ma'no Bonilla, alcalde de el mismo y su demarcacion con los testizos de asistencia con quienes actuo en la forma establecida p'r falta de escribano publico pase al rancho llamado S'n Simeon y alguna, distancia en el puerto nombrado el Corral del Padre houge a D. J. de Jesus Pico à culla solicitud concurria dho lugar con objeto de darle posecion juridica del terreno q'e tiene concedido p'r el gob'n del Departamt'o, p con tal fin p'a proceeder à la medicion de dho terreno medi un cordel de curcuenta varas Castellanas, y p'a su constancia lo asente p'a diligencia q. firme con los de asistencia day féc.

F. MAR'NO BONILLA.

De as'a—RAFAL VILLA.
De as'a—MERCURIAL GARCIA.

CORRAL DEL PADRE JUAN MORENO,
Sept. 24 *de* 1842.

Suspendace las diligencias y tramites de posecion hta mañana q'e se continuaran yo: el alcalde asi lo decreté y formé.

BONILLA.

Siendo las seis de la tarde se suspendio la continuacion de estas diligencias p'a ser hora insportuna.

J. MAR'NO BONILLA.

En el Corral del Padre Juan Moreno à las nuebe de la mañana del dia veinte cuico de Sept. del año de mil ochocientos cuarenta y dos yo Ma'no Bonillo, alcalde del pueblo de S. Luis Obispo y su demarcacion con los de asistencia y presente, D'n J. de Jesus Pico con objeto de continuar el acto de posecion juridica que pidio dho s'r p'r faltar perito agrimencon q'e verificarse la medicion del terreno de las concurrentes despuse nombrar y nombre dos medidores cordeleros q'e lo fueron Marcelino Buelun y D'n Santiago Crista, los q'e habiendore aceptado el nombramiento juraron p. dios y la Santa Cruz desempeñar fielmente su encargo y p'e su constancia se

asento esta diligencia q'e firme con los de asistencia y los nombrados q'e p'r no saber firmar hicieron una Cruz; day fee.

J. MAR'NO BONILLA.

De a.—
RAFAEL BILLA,
MARCELIUN BUELUN.
De assa—
MERCURIAL GARCIA,
SANTIAGO URISTA. ✕

A continuacion en el mismo paraje, dia, mes, y año yo el juez p'e proceder à la medicion del terreno concedido à D. J. de Jesus Pico le pide à dho S'r sutitule y teniendalo presente dispuse comenzan las medidas sin q. hubriese concurrencia de colindantes p'r no téner duenos los terrenos laterales y al efecto tomando las medidores cordeleros el cordel por sus extremos se comenzo à medis desde el arroyo de Pinalite q. llaman del Padre J'n en direccion al N. O. p'r la playa y costa y hsta el arroyo de S'n Carpofon, se medieron quinientos veinte y cuatro cordeles, y se señalo aguel pueto p'e lindero y termino à tal rumbo y de alli se continuo midiendo p'a la orilla de dho arroyo al N. E. y hta la orma de la sierra se mi dieron ciento y diez y ocho cordeles en fin punto que tambrin se marco, y no pudiendo, continuar las medidas p'r la misma cima de dha sierra por lo escaborro de ella se medio pol la falda de la misma sierra su linea paralela à la playa y tita lleyar al arroyo del Padre Juan por la parte de su nacimiento en la sierra y se midieron hta dho pueto quinientos treinto y cinco cordeles habiendo llebada en esta linea el rumbo de S. E. se continuaron las medidas y se tar el cordel por la orilla del arroyo del Padre Juan y con rumbo al S. O. titu lleyar al punto endonde se comenzo en la playa se midieron treseientas cordeles. Habiendo concluida la midicion y senaladas las terminos y luides sin presentarse opesitor ningune en presencia de todos los concurrentes tome de la maur a D. J. de Jesus Pico y en voz clara le dije en nombre de la nacion Mejicana doy' á v posecion del terreno q'e se ha adjudicada y q'e se ha medido y respondiendo que la tomaba dispuse q'e de alzun modo manifestarse el dominio y señorio q'e tenia en el enunciado terreno y el como duem absoluto en demostracion del dominio directo q. tenia y ser el Señor de aguel terreno arrance yerbas y tuvo piedras con lo que se concluzo el actq y lo asente p'o diligencia pudiendo de Jesus Pico se le entregasen originales estas para su resguardo y testimonio de adjudicacion de propiedad day feé.

J. MAR'NO BONILLA.

Al ass'a—RAF'L VILLA.
De as'a—MERCURIAL GARCIA.

R. RAL DEL PADRE JUAN MORENO,
Sep'm. 25, *de* 1842.

Debuelvense estas diligencias originales à D. Jesus Pico p'a su

resguardio y testimonio de adjudicacion de propiedad y tomere razon de el en el libro respectibo, yo el juez asi lo decrete.

BONILLA.

S'N LUIS OB'PO, *Sep.* 28, *de* 1842.

En este fha se devalvieron las presentes à D. Jesus Pico quedando tomado razon en el libro correspondiente a f's 23, 24 y otrus.

J. MAR'NO BONILLA.

Filed in office Sept. 2d, 1852.

GEO. FISHER, *Sec'y.*

(Sig.) J. W.

First stamp.—Six dollars.

Provisionally authorized by the maratime custom-house of Monterey for the year 1839 and 1840.

(Signed) ALVARADO.

(Signed) ANTONIO M'A OSIO.

[Translation of document J. W., annexed to the deposition of Pablo de la Guerra, taken before Comm'r James Wilson.]

{Maratime Custom House of Monterey. EAGLE.} Juan Bantista Alvarado, Constitutional Governor of the Department of the Californias.

Whereas citizen Jose de Jesus Pico has petitioned, for his personal benefit and that of his family, for the tract of land known by the name of Piedra Blanco, bounded by the arroyo called del Penalite, by that known by the name of San Carpogaro, by the sea and the big mountain—all the steps and investigations concerning thereto having been first had as required by law and regulations—exercising the powers conferred upon me in the name of the Mexican nation, I have thought proper to grant him the said tract of land, to be subject to the approval or disapproval of the m't excel't Depart'l junta, and upon the following conditions:

1st. He may fence it without injury to the passages, roads, and servitudes. He may enjoy it fully and exclusively, appropriating it to such use or cultivation as may suit him best; but within one year he shall build a house, and the same shall be inhabited.

2nd. He shall apply to the proper officer to give him juridical possession by virtue of this title, by whom the boundaries shall be marked out, at the limits of which he shall place, besides the landmarks, some fruit or useful forest trees.

3d. The tract of land of which mention is made is of the extent stated in the plan enclosed in the expediente thereof. The officer who may give the possession shall cause it to be measured accord-

ing to ordinance; the surplus thereof to remain to the nation for convenient uses.

4th. If he shall contravene these conditions, he shall forfeit his right to the land, and it shall be liable to be denounced by another.

Whereupon I order that this title, being held firm and valid, registry thereof be made in the proper book, and it be delivered to the party interested, for his safety and other purposes. Given at Monterey, on the eighteenth day of January, one thousand eight hundred and forty.

(Signed) JUAN B. ALVARADO.
(Signed) MANUAL JIMENO,
Sec'y.

A registry of this title is made in the book of registry on adjudication of vacant lands at fo. 14.

(Signed) JIMENO.

[J. W.]

At the puebla of San Luis Obispo, on the twenty-fourth day of the month of September, in the year one thousand eight hundred and forty-two, S. J. Mar'no Bonilla, alcalde of the same and its demarcations, together with the accompanying witnesses, with whom I act, according to law, for want of a notary public, went to the rancho called San Simeon, and some distance, at the place named el Corral del Padre, I met D. J. de Jesus Pico, by whose application I went to said place, for the purpose of giving him juridical possession of the tract of land which he has had granted by the govern'nt of the Departm't, and for such a purpose, and to proceed to the measure'nt of said land, I measured a cord of fifty Spanish varas, and in proof thereof noted this as a step, which I signed, together with the witnesses. I testify.

(Signed) MAR'NO BONILLA.

Wit's:
(Signed) RAF'L VILLA.
Wit's:
(Signed) MERCURIAL GARCIA.

CORRAL DEL PADRE JUAN MORENO,
Sep't 24th, 1842.

Let all the steps and proceedings regarding the possession be stopped until to-morrow, when they shall be carried on. I, the alcalde, thus order'd and signed it.

(Signed) BONILLA.

It being six o'clock p. m., the continuance of these steps was stopped until to-morrow, owing to the improper time.

(Signed) J. MAR'NO BONILLA.

At the Corral del Padre Juan Moreno, at nine o'clock on the morning of the twenty-fifth day of Sept., in the year one thousand eight hundred and forty-two, I, J. Mar'no Bonilla, alcalde of the pueblo of San Luis Obispo and its demarcations, together with the accompanying witnesses, and being present D. J. De Jesus Pico, for the purpose of continuing the act of juridical possession which said Sr. asked, for want of a practical surveyor to accomplish the measurement of the land out of the concurring parties, I thought proper to appoint and did appoint two measurers, being Marcelino Buelna and D. Santiago Urista, who having accepted the appointment, took their oath, by God and the Holy Cross, to perform their duty; and in proof thereof, this step has been noted, which I signed, together with the accompanying witnesses, and the nominees not being able to sign, made a cross. I testify.

(Signed) J. MAR'NO BONILLA.

Wit's—

(Sg'd) RAF'L VILLA,

" MARCELINO BUELUN, ✕

(Signed) MERCURIAL GARCIA,

" SANTIAGO URISTA. ✕

In presence thereof, at the same place, and on the same day, month, and year, I, the judge, in order to proceed to the measurement of the tract of land granted to Don J. de Jesus Pico, did ask of him, said Señor, his title; and having it in view, I directed to commence the measurement—there being no concurrence of adjoining neighbors, for the lateral lands are not owned by any one. And for that purpose, the measurers taking the cord by its extremities, it was commenced to measure from the arroyo del Pinal, (grove of pines, *min'ls,*) which is called of del Padre Juan, in a northwest direction by the sea and coast, as far as the arroyo de San Carpogoro, there were measured five hundred and twenty-four cords, and that place was marked as boundary and limit to such a direction; and from thence it was continued to measure along the bank of said arroyo to the northeast, and as far as to the summit of the mountains there were measured one hundred and eighteen cords, at a place which was marked also; and being impossible to continue the measurement by the same summit of said mountain, from its roughness, it was measured from the base of the same mountain in a parallel line to the beach, as far as reaching the arroyo del Padre Juan, on the side of its spring in the mountain, and to said place there was measured five hundred and thirty-five cords, having taken in this line the southeast direction. They continued the measure, and the cord was drawn along the bank of the arroyo del Padre in a southwest direction, as far as reaching the place where it started. On the beach there were measured three hundred cords.

Having concluded the measurement and marked out the limits

and boundaries without having appeared any party opposing, in the presence of all the concurring parties, I took D. J. de Jesus Pico by his hand, and clearly told him, in the name of the Mexican nation, I do give you possession of the tract of land which was adjudicated to you, and has been measured; and he answering that he took it, I directed that in some way he should display the domain and ownership he had to the said tract; and he, as absolute owner, in demonstration of the direct domain he had, and of his being the landlord of that land, pulled some herbs and threw some stones, wherewith the act was concluded, which I noted as a record. Don Jesus Pico asked that these original documents might be delivered to him for his safety and proof acquisition of ownership.

I attest: (Signed) J. MAR'NO BONILLA.
Witness—
(Sgn'd) RAF'L VILLA.
Witn's—
(Signed) MERCURIAL GARCIA.

CORRAL DEL PADRE JUAN MORENO,
Sept. 25th, 1842.

Let these original documents be given to Don Jesus Pico for his safety, and other proofs of acquisition of ownership and registry be made in the proper book. I, the judge, thus ordered it.

(Signed) BONILLA.

SAN LUIS OBISPO, *Sept. 28th*, 1842.

On this day these presents are given to Don Jesus Pico—a registry having been made in the proper book at fol'o 23, 24, and *averse.*

(Signed) J. MAR'NO BONILLO.

I, George Fisher, secretary to the U. S. land commissioners to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing is a true and correct translation of a Spanish document in case No. 302, wherein Jose de Jesus Pico claims the Rancho of Piedra Blanco, now on file in this office.

In testimony whereof, I have hereunto signed my name, office of said commissioners, San Francisco, December 16th, A. D. 1853.

GEO. FISHER, *Sec'y.*

[Opinion by Com'r Alpheus Felch.]

JOSE DE JESUS PICO
vs.
THE UNITED STATES.

For the place called Piedra Blanca, in San Luis Obispo county, containing

This claim is founded on a grant made to the present claimant by Governor Juan B. Alvarado, on the 18th day of January, 1844, which grant, duly proved, is given in evidence. The claimant has also given in evidence the record of judicial possession, shewing that the land was duly measured to him on the 25th day of September, 1842, and a copy from the archives of an entry of the subsequent approval of said grant by the Departmental Assembly. The land is described by metes and bounds, the quantity not being stated in the grant; and with the aid of the measurement reported by the officer giving juridial possession, the boundaries appear to be plain and definite. From the testimony of Antonio Maria Pico and Andres Pico, it appears that claimant built a house on the premises in 1840 and 1841, and has occupied the place with horses and cattle ever since about the time the grant was made, and also has cultivated a portion of the premises during that period. Giving a liberal construction to this testimony as to the time mentioned therein, there is enough to enable us to regard the performance of this condition as substantiated.

The claim is confirmed.

Filed in office December 13th, 1853.

GEO. FISHER, *Sec'y.*

[Decree of confirmation.]

JOSE DE JESUS PICO
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petition is valid, and it is therefore hereby decreed that the same be confirmed.

The land of which confirmation is hereby made, is that known by the name of Piedra Blanca, and now in possession of said Pico, and is bounded and described as follows, "to wit:" Beginning on the sea-shore at the mouth of the arroyo del Pinal, which is also called the arroyo del Padre Juan, and running thence along the sea-coast in a northwest direction, twenty-six thousand two hundred varas, to the mouth of the arroyo de San Carpogoro; thence along the bank of said arroyo to the northeast, to the summit of the mountains, five thousand nine hundred varas; thence along said mountains, in a line parallel with the beach, to the arroyo del Padre Juan, on the side of its spring in the mountains, twenty-six thousand seven hundred and fifty varas; and thence along the bank of said arroyo del Padre Juan, in a southwest direction, fifteen thousand varas, to the place of beginning.

ALPHEUS FELCH,
R. AUGU. THOMPSON,
THOMPSON CAMPBELL,
Com'rs.

Filed in office Dec'r 13th, 1853.

GEO. FISHER,
Sec'y.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing and twenty-four pages, numbered from 1 to 24, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office in case No. 302 on the docket of the said board, wherein Jose de Jesus Pico is the claimant against the United States for the place known by the name of "Piedra Blanca."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-second day of August, A. D. 185 , and of the independence of the United States of America the seventy-eighth.

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE LOS ANGELES.

I, Charles E. Carr, clerk of the District Court of the United States for the southern district of California, do hereby certify that the foregoing 25 pages, numbered from 1 to 25, both inclusive, contain a full, true, and correct copy of transcript No. 43, filed in this office, wherein Jose de Jesus Pico is appellee and the United States is appellant for Piedra Blanca.

In witness whereof, I have hereunto set my hand and affixed the [L. S.] seal of said Court, at Los Angeles, California, this 20th day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

C. E. CARR, *Clk.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

JOSE DE JESUS PICO, appellee, } Docket, No. 43.
vs.
The UNITED STATES, appellant. } Transcript, No. 302.

Be it remembered, that on the 29th day of August, A. D. 1854,

in the District Court of the United States for the southern district of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded, of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Jose de Jesus Pico is the claimant against the United States for the place named Piedra Blanca, was received and filed and docketed with No. 43, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Jan'y* 10th, 1855.

In case No. 43, Jose Jesus Pico for Piedra Blanca, the notice of appeal from the Att'y Gen'l of the U. S. was filed.

(Vide page 1.)

LOS ANGELES, *Aug. 13th*, 1855.

In same case, the petition of the U. S. for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings was had in their chronological order, to wit:

LOS ANGELES, *Sept. 12th*, 1855.

In same case, the answer of the appellee was filed.

(Vide page 8.)

LOS ANGELES, *Sept. 25th*, 1855.

In same case, the opinion of the Court was delivered confirming the claim, and the following decree entered.

(Vide page 9.)

LOS ANGELES, *Oct. 18th*, 1855.

In same case, the following order of appeal was filed.

(Vide page 11.)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 30th November, 1854.

JOSE DE JESUS PICO
vs.
THE UNITED STATES. } 302.

[Notice of appeal.]

You will please take notice, that in the above case, decided by the commissioners, to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings, in which was received in this office on the 18th day of August, 1854, the appeal in the District Court of the United

States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed Jan'y 10th, 1855.

C. E. CARR,
Clk.

IN THE DISTRICT COURT OF THE UNITED STATES
For the Southern District of California.

Los Angeles county, State of California.

JOSE DE JESUS PICO ads. THE UNITED STATES. } No. 43. (Transcript, No. 302.)

[Petition of U. S. for review.]

To the honorable Isaac S. K. Ogier, judge of the District Court of the United States for the southern district of California.

The petition of Pacificus Ord, (of Los Angeles county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States; and being present here in Court in his proper person, in the name and behalf of the United States represents as follows:

That heretofore, to wit, on or about the 14th day of August, A. D. 1852, Jose de Jesus Pico presented a petition to the commission's to ascertain and settle the private land claims in the State of California, claiming the tract of land called Piedra Blanca, in the county of San Luis Obispo, in the words and figures following, viz:

"Jose de Jesus Pico gives notice that he claims a tract of land called the rancho of la Piedra Blanca, situated in said State, by virtue of a right and title derived from the Mexican government, according to the boundaries set forth in the grant thereof, and in the juridical delivery made in conformity with said grant. A copy of said grant is herewith presented, and prayed to be received as part of this petition, and the original will be produced and proved, as may be required, together with other evidence."

Your petitioner further represents, that thereafter, to wit, on the 13th day of December, A. D. 1853, the said commissioners confirmed, by final decree, the said claim of the said Jose de Jesus Pico, in the words and figures following, to wit:

"In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petitioner is valid, and it is therefore hereby decreed that the same be confirmed.

"The land of which confirmation is hereby made, is that known by the name of Piedra Blanca, and now in possession of said Pico, and is bounded and described as follows, to wit: Beginning on the sea-shore, at the mouth of the arroyo del Pinal, which is called also the arroyo del Padre Juan, and running thence along the sea-coast, in a northwest direction, twenty-six thousand two hundred varas, to the mouth of the arroyo de San Caspojon; thence along the bank of said arroyo to the northeast to the summit of the mountain, five thousand nine hundred varas; thence along said mountain, in a line parallel with the beach, to the arroyo del Padre Juan, on the side of its spring in the mountain, twenty-six thousand seven hundred and fifty varas; and thence along the bank of said arroyo del Padre Juan, in a southwest direction, fifteen thousand varas, to the place of beginning.

"ALPHEUS FELCH,
"R. AUG'T. THOMPSON,
"THOMPSON CAMPBELL,
"*Commissioners.*

"Filed in office Dec'r 13th, 1853.

"GEO. FISHER, *Sec'y.*"

That thereafter, to wit, on the 26th day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded, in said cause, was filed in the office of the clerk of the District Court of the United States for the southern district of California, and marked No. 43, (transcript No. 302,) reference to which it is prayed may be had and made a part of this petition.

That on the 18th day of August, A. D., 1854, the honorable C. Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 302,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said District Court for the southern district of California, that the appeal in said cause of Jose de Jesus Pico vs. the United States from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this honorable Court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous, and ought to be reviewed, reversed, and set aside for many errors and imperfections of law

and evidence apparent in said certified transcript of said cause, now in appeal from said commissioners to this honorable Court.

And your petitioner further represents, that the said claim is invalid and the said decree erroneous on the following grounds:

I. And the said attorney denies all and singular each and every allegation in the said petition of said claimant to said commissioners of said date. And he further denies that any grant for said land was ever made as alleged in said petition. And he denies further, that the said claimant has shown any or sufficient evidence of the validity of the said claim.

II. That the pretended grant of Juan B. Alvarado was made in violation of the 4th article of the colonization law of Mexico of the 18th of August, A. D. 1824, in this: that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast; and there is no evidence shown by claimant that the supreme general executive power of Mexico previously approved of the colonization of the public lands in Upper California lying within ten leagues of the sea-coast. And it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by and in the possession of the missions of the Territory of Upper California; and it was held and occupied particularly by the mission of San Antonio or San Miguel, and could not, therefore, be colonized.

IV. That the said alleged grant has not the conditions required by and is not made in entire conformity with the laws of Mexico of the 18th day of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico of the 21st November, A. D. 1828.

V. That the said claimant fails to show his petition to said Governor Alvarado, with a map soliciting said tract of land called Piedra Blanca. And he fails to show his petition to the alcalde of San Luis Obispo, soliciting the juridical possession of said land; and he shows no cause for the absence of said petition and map.

VI. That said alleged grant by said Governor of said land does not contain any special quantity of land; and the locality, extent, and boundaries of the same are vague and indefinite, and it is void for uncertainty.

VII. That the said claimant fails to show the map of the land claimed, which is referred to in and made a part of said alleged grant of said date, and no cause is shown by him for the absence of said map; that said tract of land cannot be identified and surveyed without reference to said map.

VIII. That the said claimant shows no definitive title for said land.

IX. That there is no sufficient evidence that the said grant to claimant of said tract of land, bounded as therein described, and

called Piedra Blanca, purporting to have been made by Juan B. Alvarado, of the date of the 18th day of January, A. D. 1840, was ever approved by the Departmental Assembly of California.

X. That there is no sufficient evidence that J. Mariano Bonilla was alcalde of San Luis Obispo on or about the 24th and 25th of September, 1842, and that, as such, he had at said time lawful authority to make the survey and give juridical possession of said land to said claimant; and it is denied that he was alcalde of said place at said time, and had then lawful authority to perform said acts of survey and possession.

XI. That the said pretended juridical acts of survey and possession of said land by said J. Mariano Bonilla were not made in conformity with said pretended grant and the map referred to therein, nor according to ordinance or law, and that the said pretended acts are vague and indefinite, and they are not written upon lawful stamped paper, and no reason is shown for their being upon common paper.

XII. That there is no sufficient evidence that the said claimant, Jose de Jesus Pico, built a house on the said land within one year after the date of the said pretended grant, and that he occupied the same, and that he cultivated the said land. And it is denied that he built a house on the said land, and occupied it within one year from the date of said grant, and that he cultivated the land, as required by the conditions of the said grant.

And no sufficient proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or granted thereon, but the said petition ought to have been dismissed, and said claim rejected by said commissioners upon the grounds aforesaid.

And the said claimant having no valid right or title derived from the Spanish or Mexican government to the said land claimed by him as aforesaid, the lawful right or title in and to the said land was acquired by and it now belongs to the said United States, by virtue of the treaty of peace, friendship, limits, and settlement with the republic of Mexico, dated at the city of Gaudeloupe Hidalgo, February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said Jose de Jesu Pico may be served with a copy of this petition, and that this honorable Court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of the said José de Jesus Pico for said land claimed and confirmed as

aforesaid, and that the same may be decreed invalid, and all such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of Cal.

Filed Aug't 13, 1855.

C. E. CARR,
C'lk.

DISTRICT COURT OF THE UNITED STATES
For the Southern District of California.

THE UNITED STATES, appellant,
vs.
JOSE DE JESUS PICO, appellee. } No. 43.

[Answer.]

The answer of appellee respectfully showeth, that the claim made by him for the land in question is good and valid, and he therefore prays that the decision of the commissioners be affirmed, and said claim be declared valid by this Court.

It is admitted that the land in question is within ten leagues of the sea coast, and is within the territorial jurisdiction of this Court, and that notice of appeal was given as set forth in the petition.

By his attorney,

WM. CAREY JONES.

Filed Sept. 12th, 1855.

C. E. CARR,
C'lk.

JOSE DE JESUS PICO,
appellee,
ads.
THE UNITED STATES,
appellant. } No. 43. For Piedra Blanca.

DISTRICT COURT UNITED STATES,
For the Southern District of Cal'a.

[Decree.]

This cause coming on to be heard at a special term of this Court, on appeal from the decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved 3d March, 1851, on the transcript and pro-

ceedings and decisions of the said commissioners, and on the papers and evidence on which said decision was founded; and it appearing to the Court that the said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the decision of the commissioners be in all things affirmed; and it is further ordered, adjudged, and decreed that the said claim be confirmed to the said appellee to the place known by the name of "Piedra Blanca," being the same land which is now in the possession of the said Jose de Jesus Pico—for a more particular description of which land reference will be had to the map and juridical record of possession of file in the transcript of the record in this case.

ISAAC S. K. OGIER,
U. States District Judge
for the South'n Distr. of California.

Filed Sep. 26th, A. D. 1855.

C. E. CARR, *Cl'k.*
By J. W. ROSS, *Dep'ty.*

Filed Sept. 25th, 1855.

(Signed) C. E. CARR, *Cl'k.*

IN THE UNITED STATES DISTRICT COURT
For the Southern District of California.

Special term, Los Angeles, Sept. , 1855.

JOSE DE JESUS PICO, app., ads.
THE UNITED STATES, app't. } No. 43. Transcript, No. 302.

[Order of appeal.]

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States in the above-entitled cause, rendered on or about the 25th day of Sept., A. D. 1855.

(Signed) P. ORD,
U. S. Dist. Att'y.

Filed Oct. 18th, 1855.

C. E. CARR, *Cl'k.*
By J. W. ROSS, *Dep.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, Clerk of the District Court of the United States for the southern district of California, do hereby certify that the foregoing 11 pages, numbered 1 to 11, both inclusive, *to* contain a true, correct, and full transcript of the record of proceedings and of the decision of the said Court, of the documentary evidence, and of testimony of witnesses upon which the same is founded, on file in this office in case No. 43 on the docket of said Court, wherein Jose de Jesus Pico is appellee and the United States is appellant for Piedra Blanca.

In testimony whereof, I have hereunto set my hand, affixed the seal of said Court, at Los Angeles, California, this twentieth day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

[L. S.]

C. E. CARR, *Clk.*